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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,119	02/11/2004	Michael Geren Farrell	A8381	1265

23373 7590 04/20/2005

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EXAMINER

SZUMNY, JONATHON A

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 04/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/775,119

Applicant(s)

FARRELL ET AL.

Examiner

Jon A Szumny

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 5-11, 14-20 and 23-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 12, 13, 21, 22 and 26-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

This is the second office action for application number 10/775,119, Pipe and Cable Support Apparatus and Method, filed on February 11, 2004.

Election/Restrictions

Applicant's election without traverse of Group I (corresponding to claims 1-15 and 21-29) in the reply filed on March 28, 2005 is acknowledged.

Claims 16-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on March 29, 2005.

Applicant's election without traverse of Species I corresponding to claims 1-4, 12, 13, 21, 22 and 26-29 in the reply filed on March 28, 2005 is acknowledged.

Claims 5-11, 14, 15 and 23-25 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on March 29, 2005.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 13 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter that was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

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Regarding claim 13, neither the specification nor the drawings illustrated or taught the outer surface to slope inwardly toward the opening to cam the at least one of pipe and cable toward the cavity when the at least one of pipe and cable is pushed inwardly of the outer surface. With respect to figure 2A, for instance, it appears all of the outer surfaces are substantially planar and do not slope inwardly. Further, because claim 1 recited a "a plurality of outer surface," it is not clear which "outer surface" is being referred to in claim 13. Therefore, the Examiner will not attempt to apply art against claim 13.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter that the applicant regards as his invention.

Claims 1-4, 12, 13, 21, 22 and 26-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is not clear if the applicant is attempting to recite a support apparatus *for supporting* a...pipe or cable, or the combination of a support apparatus *and* a pipe or cable. The preamble of claims 1, 21 and 26 recite the pipe or cable *functionally*, but then later on in claims 1, 12, 13, 21, 22, 26 and 27, the pipe or cable is recited *positively* ("...and having a cross sectional... of the pipe or cable," in claim 12, "...has a width less... pipe and cable," etc.). The applicant must make it clear whether the pipe or cable is intended to be recited functionally or positively. For the purposes of this office action, the Examiner will assume the pipe or cable is recited merely *functionally*.

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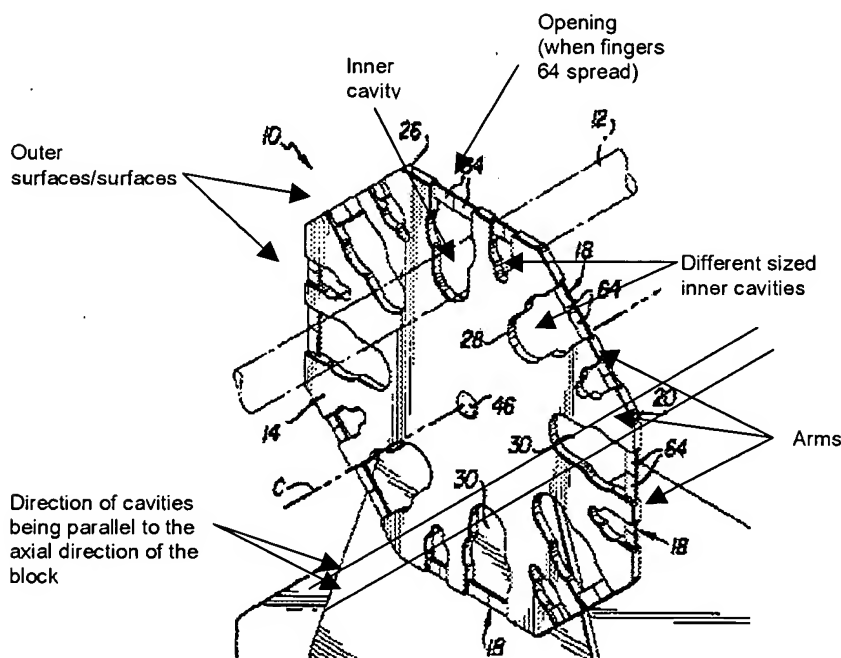
Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 12, 21, 22, 26 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent number 6,375,017 to Schattner et al.



Schattner et al. '017 a support apparatus/block member (figure 1) comprising a plurality of outer surfaces/surfaces (above), an opening (above) disposed at at least one outer surface, and an inner cavity (above) being disposed inward from the opening, wherein each of the plurality of outer surfaces includes a corresponding opening and a corresponding inner cavity, wherein the corresponding inner cavities for the plurality of outer surfaces have different sizes, wherein the

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support apparatus further comprising a plurality of openings in at least one of the outer surfaces, wherein the opening inherently could have a width less than the nominal diameter of at least one of a pipe and cable and the cavity cross sectional area, wherein the support apparatus includes an axial direction (along C) and a radial direction substantially radially perpendicular to the axial direction, wherein the apparatus has a plurality of projecting arms (above) extending substantially in the radial direction wherein two adjacent arms inherently could cooperatively support that at least one of the pipe and cable thereinbetween, wherein the adjacent arms cooperatively form a cavity and the distal ends of the arms form an opening into the cavity and wherein the cavity could inherently be larger than a nominal diameter of a pipe or cable, wherein one of the plural surfaces includes a plurality of openings leading to cavities, wherein the openings and corresponding cavities are of varying sizes, wherein the block is formed of plastic (column 5, lines 61-63), wherein all cavities are parallel to an axial direction of the block (see above), wherein the block/apparatus could perform all recited functions.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

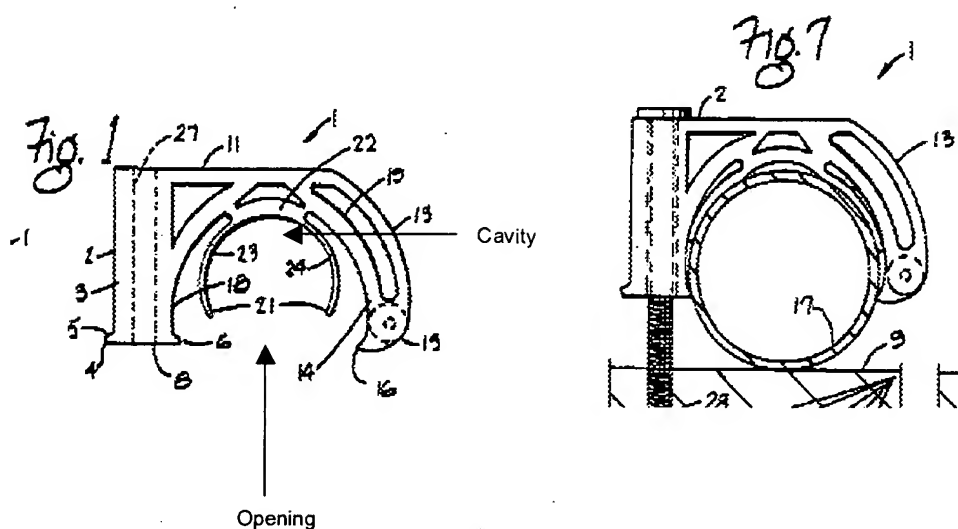
Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schattner et al.

'017.

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Schattner et al. '017 teaches the previous invention wherein the block is formed of plastic, but fails to specifically reveal the block to be formed of an *extrudable* plastic. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have formed the block of *extrudable* plastic since it is a well-known process in the art for forming plastic devices.

Claim 29 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over U.S. Patent number 5,054,741 to Ismert.



Ismert '741 discloses a method for installing at least one pipe (17) comprising: disposing at least one of a plurality of support blocks (1) at a predetermined location; turning the one support block so that a side of the one support block, corresponding to the at least one pipe, is facing toward a first direction, the side having an opening (above) and a cavity (above) corresponding to the at least one of the pipe and the cable; placing the at least one of the pipe and cable over the one support block from the first direction; and snapping in the at least one of the pipe and cable into the cavity (see column 4, lines 26-27). However, the phrase "disposing at least one of a plurality of support blocks..." might be interpreted as meaning the method includes

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a plurality of support blocks. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided for a plurality of support blocks since doing so would be seen as simply a duplication of parts. See *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960).

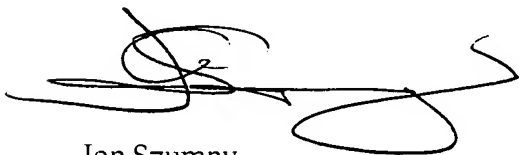
Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Rainey '578, Carter '083, Seyfarth '074, Netzer '636, Kramer et al. '188, Heidorn et al. '852 and Coykendall '336 teach various support blocks/apparatuses having openings and corresponding inner cavities on a plurality of outer surfaces thereof.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jon A Szumny whose telephone number is (571) 272-6824. The examiner can normally be reached on Monday-Friday 8-4.

The fax phone number for the organization where this application and proceeding are assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-3600.



Jon Szumny
Patent Examiner
Technology Center 3600
Art Unit 3632
April 7, 2005